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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,042	04/25/2001	Athan Gibbs SR.	825061-00002	7194

7590 06/27/2003

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EXAMINER
JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

JT

Office Action Summary	Application No.	Applicant(s)	
	09/843,042	GIBBS, ATHAN	
	Examiner	Art Unit	
	Romain Jeanty	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 April 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *5* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. This Non- final rejection is in responsive to applicant's filing of this application on April 25, 2001. Claims 1-24 are pending in the application.

Examiner's Note

2. The examiner has pointed out particular references contained in the prior art of record and in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claims, other passages and figures apply as well. It is requested from the Applicant, in preparing the response, to consider fully the entire references as well as the context of all passages in the cited references as potentially teaching all or part of the claimed invention.

Claim Objections

3. Claim 21 is objected to because of the following informalities: It appears the phrase "the voter apparatus" in line 1, was mistyped and that applicant meant to write "the method of voting". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites the method, further comprising the steps of, without reciting the further

limitation (s) for the claim. It is unclear whether claim 24 is an independent or a dependent claim. For examination purposes, the examiner interprets claim 24 as being an independent claim.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 24 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim1 of copending Application No. 09/827,231. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

Claim 24 of the instant application (09/843,042) essentially repeats all the features recited in claim 1 of U.S. Application No. 09/827,231 with the obvious difference that in claim1 of the present application the step of receiving is omitted. It would have been obvious to one having ordinary skill in the art at the inventions was made to omit the receiving step, since it has been held that omission of an element a step and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. In re Karlson, 136 USPQ 184.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 12 are rejected under 35 U.S. 102(b) as being anticipated over Miyagawa U. S. Patent No. 5,377,099.

As per claim 1 and 12, Miyagawa discloses an electronic voting system comprising:

a central processor operative to present for display a sequential series of ballot screens (col. 4, lines 58 through col. 5 line 2, each ballot screen corresponding to one elective race and including a candidate information block having a text name and a graphic image associated with each of at least one candidate for election by voters in the elective race (i.e. a CPU for displaying election information to a voter (col. 12, lines 61-68 and col. 4, lines 44-65), whereby the central

processor detects which of the at least one candidate information blocks was selected by the voter (i.e. detecting the selection made by the voter) (col. 8, lines 5-10);

Miyagawa further discloses a touch-sensitive video display monitor communicating a signal representative of a selected location of a touch by a voter to the central processor, which touch is made at the display of the candidate information block for whom the voter intends to vote (since the voter uses a pen on the screen to make a selection, it implies that it is a touch screen) (col. 8, lines 11-57), and a communicator to transfer the vote to a tabulator for summing the votes for the selected one of the at least one candidate (transmitting the vote count to a host computer to be totaled (col. 12, lines 1-16).

As per claims 5, 13 and 17, Miyagawa discloses the limitations of claim 5 in the rejection of claim 1 above. In addition, Miyagawa discloses a communications device for connecting the central processor to a vote tabulation center over a telecommunications network, whereby the summation of votes is communicated (col. 12, lines 2-16).

As per claims 6 and 18, Miyagawa discloses the limitations of claim rejection of claim 12 in the rejection of claim 1 above. In addition, Miyagawa discloses at least one speaker/headphones connected to the central processor for making an audible recitation to the voter of the names of the candidate prior to the voter voting (col. 3, lines 45-49).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 2 and 14 are rejected under 35 U.S.C 103(0a as being unpatentable over Miyagawa U.S. Patent No. 5,377,099 in view of Rekieta et al U.S. Patent No 6,230,164).

As per claims 2 and 14, Miyagawa discloses the limitations of claim 2 in the rejection of claim 1 above. In addition, Miyagawa discloses a storage device (col. 6, line 35). However, Miyagawa does not explicitly disclose a pair of mirrored storage devices to record the summation of the votes by the tabulator. Rekieta et al on the other hand, discloses a pair of mirrored storage devices. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the voting system of Miyagawa to incorporate a pair of mirrored storage device in the same conventional manner as disclosed by Rekieta et al. Doing so would allow a user to update voting information quickly and accurately.

12. Claims 3, 8, 9, 15 and 20-21 are rejected under 35 U.S.C 103(a) as being unpatentable over Miyagawa U.S. Patent No. 5,377,099 in view of McKay et al U.S. Patent No 3,793,505.

As per claims 3 and 15, Miyagawa discloses the limitations of claim 3 in the rejection of claim 1 above. However, Miyagawa does not explicitly disclose wherein the central processor further displays a proposition screen having a recitation of the proposition and graphics images representative of the proposition and the negative of the proposition. McKay et al in the same of

endeavor, discloses a voting system having a proposition screen and images of the proposition (col. 5, lines 1-10). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the disclosures of Miyagawa to incorporate the propositions and images of the propositions the same conventional manner as discloses by McKay et al in order to allow a voter to vote on other issues such as referendum in an election. Note column 1, lines 27-28 of McKay.

As per claims 8, 9 and 20-21, Mayagawa does not explicitly disclose the limitations of claims 8 and 9. McKay et al in the same field of endeavor, discloses an electronic voting system when the voter makes a choice of candidates, selected from the list of candidates appearing in the image projected onto the video screen, the corresponding button is pressed in according to such selection and when pressed, lights up and stays in the in position until the change-image button is pressed to advance the film and change the image which reads on "wherein each candidate information block includes a positive graphic to indicate the selection of the candidate in response to the voter selecting one of the candidate information blocks by touching the video screen, and wherein the selected candidate information block in one of the ballot screens remains selected until the voter selects another of the candidate information blocks in said one of the ballot screens, whereupon the positive graphic in the selected candidate information block is changed to a negative graphic and the another of the candidate information blocks is changed to a positive graphic" (col. 6, line 59 through col. 7, line 19). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the voting system of Mayagawa to incorporate the teachings of McKay et al in order to allow a voter to make a voting selection.

13. Claims 4, 7, 10, 11,16, 19 and 22-23 are rejected under 35 U.S.C 103(0a as being unpatentable over Miyagawa U.S. Patent No. 5,377,099 in view of Davis et al U.S Patent No. 6,550,675.

As per claims 4, 10, 11, 16 and 22-23, Miyagawa discloses all of the limitations of claim 4 in the rejection of claim 1 above. But Miyagawa does not explicitly disclose a printer operatively connected to the central processor for printing a voter validation receipt. Davis et al, in the same field of endeavor, discloses a voting system comprising a printer for printing a summary of the votes and a button to finalize a vote (See figure 3A, element; col. 8, lines 39-44; col. 18, lines 57-63). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have applied the printer of Davis in the voting system of Miyagawa for the motivation of showing all votes including write-ins cast on a voting machine.

As per claims 7 and 19, Miyagawa discloses the limitations of claim 7 in the rejection of claim 1 above. However, Miyagawa does not explicitly disclose wherein each ballot screen in the sequential series includes at least a return button that is selectively activate to return to a prior screen. David et al, in the same field of endeavor, provides return button so that a voter cast by a voter reverts to an unvoted state (col. 18, lines 57-63). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the voting system of Miyagawa to apply the return button of Davis et al in order to allow a voter to return to a previously cast vote and revote again for the desired candidate.

14. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al U.S. Patent No. 6,540,138 in view of Challener et al U.S. Patent No. 6,081,793.

As per claim 24, Hall et al discloses a voting system comprising:

(c) generating a voter validation number containing indicia of the voter and the voting by the voter (i.e. issuing a validation number to the voter) (col. 5, lines 62-66);

(d) providing a voter validation receipt containing the voter validation number and a report of the vote by the voter (col. 2, lines 55-60 and col. 5, 62-66);

Tall does not explicitly disclose validating the vote by the voter comparing the report of the vote with the election results tabulated by a vote tabulation center. Challener et al in the same field of endeavor, discloses a voting system for tabulating election results and providing election results wherein a voter compares a report of the vote (col. 10, lines 26-33). Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the Hall's voting system to include the comparison of a voter's vote in the same conventional manner as disclosed by Challener et al. A person having ordinary skill in the art would have been motivated to use such modification in order to verify that the appropriate ballot selection is identical to the recorded vote.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Aronoff U. S. Patent No. 3,722,793 discloses a voting system

b. Wise et al U. S. Patent No. 5,218,528 discloses an automated voting system.

c. Kilian et al U. S. Patent No. 5,495,532 discloses a secure electronic voting system.

d. Chumbley U. S. Patent No. 5,610,383 discloses a system for collecting voting data.

e. Willard U. S. Patent No. 5,821,508 discloses an electronic voting system.

f. Sehr U. S. Patent No. 5,875,432 discloses a computerized voting system.

g. Peralto U.S. Patent No. 5,878,399 discloses a computerized voting system.

h. McClure et al U.S. Patent No. 6,250,548 discloses an electronic voting system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm. If attempts to reach the examiner are not successful, the examiner's supervisor, Tariq R Hafiz can be reached at (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

or faxed to: (703) 305-7687

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington VA, Seventh floor receptionist.

Romain Jeanty

Patent Examiner

May 29, 2003